



POLICE DEPARTMENT

May 19, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer George Shammas  
Tax Registry No. 935730  
122 Precinct  
Disciplinary Case No. 85239/09  
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The above-named member of the Department appeared before the Court on  
January 21, January 29, and February 23, 2010, charged with the following:

1. Said Police Officer George Shammas, assigned to the 122nd Precinct, while on-duty, on or about January 7, 2009, at a location known to this Department, in Richmond County, having been involved in a motor vehicle accident in a Department vehicle, did thereafter fail to promptly notify the patrol supervisor, precinct of occurrence, as required.

P.G. 217-06, Page 1, Paragraph 3 – DEPARTMENT VEHICLE ACCIDENTS

2. Said Police Officer George Shammas, assigned to the 122nd Precinct, while on-duty, on or about January 7, 2009, at a location known to this Department, in Richmond County, was discourteous to New York City Police Lieutenant John Lomando, in that said Police Officer stated, "Thanks for calling inspections on me" in a sarcastic manner. (*As amended*)

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL REGULATIONS

3. Said Police Officer George Shammas, assigned to the 122nd Precinct, while on-duty, on or about January 7, 2009, did wrongfully engage in conduct prejudicial to the Good Order, Efficiency or Discipline of the Department in that said Police Officer, after being involved in a motor vehicle accident in a Department vehicle, did suggest to the driver of the other vehicle involved in said accident that she would receive a summons if she chose to file an accident report. (*As amended*)

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT  
GENERAL REGULATIONS

The Department was represented by Mark Berger, Esq., Department Advocate's Office and the Respondent was represented by John Tynan, Esq.

The Respondent, through his counsel, entered a plea of Guilty for Specification Nos. 1 and 2 and Not Guilty to Specification No. 3. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

### DECISION

The Respondent having pled Guilty to Specification Nos. 1 and 2 is found Guilty as charged. The Respondent is found Guilty of Specification No. 3.

### SUMMARY OF EVIDENCE PRESENTED

#### The Department's Case

The Department called Marilyn Ciaburri as its witness.

#### Marilyn Ciaburri

Marilyn Ciaburri, a resident of [REDACTED] County, is a secretary-office manager for a doctor's office. On January 7, 2009, Ciaburri was involved in a traffic accident with the Respondent. The roads were slippery that day because there was a mix of snow and slush. Ciaburri was traveling down Slosson Avenue when she noticed a police van approximately one-and-a-half car lengths behind her. Both vehicles were traveling at approximately 35 miles per hour.

As Ciaburri approached the intersection, she knew that she was going too fast to brake and avoid having the police van which was behind her from hitting her car. As she

got closer to the light, it was changing from yellow to red, and Ciaburri stated that she was fearful that if she ran the light, she would be issued a ticket. Therefore, Ciaburri hit her brakes and the police van hit her car. She estimates that at the time that the van hit her vehicle it was traveling at approximately 25 miles per hour.

The Respondent got out of his vehicle and asked Ciaburri if she was okay. She stated that he told her that his vehicle was not damaged and that her car appeared to have a little bit of damage and that if she wanted to make a report that would be okay, and if she did not want to make a report that would also be okay. Ciaburri got out of her car and saw that her back bumper was cracked a little bit so she informed the Respondent that she wanted to make a report. The Respondent responded "whatever you want to do" and Ciaburri said that she wanted to make a report to which the Respondent stated again "whatever you want to do." She again repeated her desire to make a report.

At that point, the Respondent went to his vehicle to get paperwork and Ciaburri stated that she went to her car to locate her driver's license, registration, and insurance card. Ciaburri testified that she informed the Respondent that she had paid her insurance a day or two before and that she did not have her valid insurance card on her, only an expired card. The Respondent told her that he would have to give her a summons since she did not have valid proof of insurance. Ciaburri asked the Respondent if this was a summons in that she simply had to prove that she had insurance or a summons meaning that she would have to pay a fine.

Ciaburri stated that the Respondent answered her question by repeating that since she did not have her insurance card, he would have to issue her a summons. Ciaburri again asked for clarification about what type of summons he meant, and the Respondent

told her that it was a ticket and that she would have to pay a fine. Ciaburri testified that upon learning this, she told the Respondent that she did not want to make a report because she did not want a ticket. Ciaburri stated that in response, the Respondent "was like okay have a nice day he gets in his truck and drives away."

Ciaburri then drove to where her boyfriend worked in Richmond Terrace and told him what had transpired. He told her that regardless of the situation she should have filed a police report. Ciaburri then called 411 to get information about which precinct she should go to file a report. Originally she was sent to the 120 Precinct and was then directed to go to the 122 Precinct. At the precinct they told Ciaburri to come back later in the day for an interview, and she complied. It was during this time that Ciaburri's boyfriend informed her that the new insurance card was in the visor of the car and she brought it to the interview.

Upon returning to the 122 Precinct, a police report was filed and Ciaburri was interviewed by members of the Department. The interview was recorded and photographs of Ciaburri's car were taken for the report. The interview was Ciaburri's last involvement with the police in this case. She was told that she would be sent a copy of the police report, but she never received it.

On cross-examination, Ciaburri stated that she is still driving the car that was involved in the accident and that she received \$2,400 in compensation from the city. Her insurance policy did not cover the accident because she did not have collision insurance. Ciaburri stated that although she did not have any work done on the car after the accident, she did have "the bumper secured so it wouldn't fall off and I had my trunk just screwed back together again." At the time of the collision, her vehicle had come to a stop, and she

estimated that the Respondent was traveling at 25 miles per hour. Ciaburri's car does have an airbag, but, it did not deploy.

Ciaburri testified that her car is a 2004 Ford Contour and that it is an ex-police vehicle. She was aware that failing to produce an insurance card is a violation of the VTL as she had received a summons for that offense approximately eight years prior. Ciaburri was asked if the Respondent suggested to her that he would not write the ticket if she did not make the report and she replied "No, he just basically told me that if I wanted to make the report that he would have to give me the summons."

#### The Respondent's Case

The Respondent testified in his own behalf.

#### The Respondent

The Respondent joined the Department in July of 2004 and has been assigned to the 122 Precinct for his entire career. On January 7, 2009, the Respondent was assigned to report to Traffic Court on Victory Boulevard to testify in regards to several summonses. At that time, his usual assignment was to drive a lieutenant. On the day of the incident, he was in uniform and driving RMP 936, which is a van. The Respondent successfully completed training on the operation of Department vehicles, including vans.

While en route to Traffic Court, the Respondent had the occasion to drive through the intersection of Slosson and Lortel Avenues, which is a residential area. The Respondent testified that it was raining outside so the windshield wipers and lights were on and that he was traveling between five and eight miles per hour. When he approached

the intersection, the Respondent saw a black Hyundai Elantra<sup>1</sup> slam on its brakes in front of him. The light at the intersection was red.

The driver of the Hyundai hit her brakes before the traffic light, but her car slid out into the intersection. Upon seeing the car brake suddenly, the Respondent hit the brakes of the van, but it did not stop in time and there was a collision with the Hyundai, which pushed the car approximately one foot forward. The Respondent was wearing his seatbelt and is unsure if the van had an airbag since it did not deploy at this time.

As soon as the collision happened, the Respondent stated that he jumped out of the van and asked the driver if she was okay. The Respondent did not see any part of either vehicle on the ground. The driver of the car appeared to be in good physical and mental condition, although she was a little surprised. Her airbag had not deployed and the Respondent was unsure as to whether or not she was wearing her seatbelt.

The Respondent stated that he told her to pull over to the side of the road to figure everything out and that she complied. The Respondent stated that he asked if she wanted an accident report and she said "yes." At this point the Respondent, in uniform, identified himself as a police officer and requested her driver's license, registration, and insurance card. The Respondent noticed that her insurance card was out of date and informed her that she needed to have a valid card on her or she could possibly be issued a summons.

The Respondent stated that he did not check to see if the driver of the vehicle had a valid insurance card by using a computer, since he did not have one in the van. He did not call Central command for their assistance. When the Respondent advised her that she would be given a summons, she changed her mind and told him that she did not want to

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<sup>1</sup> The complainant testified that her vehicle was a Ford Contour.

report the accident any more and that there was no damage to her vehicle. The Respondent stated that for a civilian accident, it is completely up to the drivers whether to report the accident or not, but for a Department accident, it must be reported.

The Respondent testified that he checked with the driver to make sure that she was completely positive that she did not want to file a report and that she drove away from the scene before he did. At that point, the Respondent had issued well over 100 traffic tickets approximately 15 per month. The Respondent stated that he learned at the Academy that officers have discretion about when to issue violations, but this discretion does not apply to any offense greater than a violation.

Less than five minutes transpired from the time that the Respondent hit the Hyundai, until the time that the driver left the scene. Upon leaving the scene, the Respondent did not inform Central command and continued on to Traffic Court. After finishing at Traffic Court, the Respondent went back to his command and had a number of voicemails telling him that he needed to get back now, and that inspectors were present. The Respondent was told that the driver of the Hyundai had contacted Lieutenant Lomando and told him that she wanted to file a report.

The Respondent stated that the lieutenant did not contact him before he got back to the command. As he entered the precinct hallway, the Respondent saw the lieutenant dressed in plain clothes and said to him, "thanks for calling inspections." The Respondent testified that this comment was impolite and that he should not have said anything to the lieutenant. The Respondent had no contact with the driver of the Hyundai at the precinct and has not had contact with her since the accident.

The Respondent testified that he was never forced to issue the driver a summons for failing to have an insurance card. The Respondent stated that he was GO'd on the day of the incident and he might have mentioned to Staten Island Investigations that she had an expired insurance card, but he is not sure. Under the Vehicle Traffic Law (VTL), not having a valid insurance card with you is a different offense than driving with no insurance.

Upon further examination by the Court, the Respondent stated that not being able to produce a valid insurance card is a moving violation and probably the lowest moving violation that exists. Based on what he was taught in the Academy, the Respondent felt that this was certainly an offense for which he would have discretion about whether to issue a summons or not.

On cross-examination, the Respondent stated that at the time of the accident, he believed that Ciaburri had an expired insurance card, and did not know whether or not she had insurance. The Respondent stated that if a patrol supervisor had been called, then a Police Accident Report would have had to be filed. Additionally, if the patrol supervisor had called someone superior to them, he stated that it could have turned into an all day event. Had this happened, then he would have missed traffic court and the judge would have had to reschedule the hearings. The Respondent does not know if the judge would have dismissed the summonses.

The Respondent stated that it was possible that the day of the accident could have turned into a long day of filling out paperwork for a very minor accident. The Respondent testified that he had no intention of influencing Ciaburri's decision of whether or not to file a report by telling her that if she filed a report, she would get a



summons. The reason that he informed Ciaburri that she could end up getting a summons if she filed a report was because he felt like “being a human being that day.” He stated that he did not want her to be surprised by getting a summons after having already been in an accident that day.

The Respondent stated that he did not give Ciaburri an option; rather, he told her that she could receive a summons for not having a valid insurance card. Although the Respondent had the authority to force Ciaburri to wait, he let her leave the scene after she told him that she did not want to file a report. The Respondent did make it to Traffic Court on time that day.

### FINDINGS AND ANALYSIS

#### Specification Nos. 1 and 2

The Respondent is charged with after having been involved in a motor vehicle accident in a Department vehicle he thereafter failed to promptly notify the patrol supervisor, precinct of occurrence, as required; and that he was discourteous to Lieutenant John Lomando by stating to the Lieutenant in a sarcastic manner, “Thanks for calling inspections.”

The Respondent having pled Guilty to these two specifications is found Guilty as charged.

#### Specification No. 3

The Respondent is charged with wrongfully engaging in conduct prejudicial to the Department in that after being involved in a motor vehicle accident in a Department

vehicle he suggested to the driver of the other vehicle involved in the accident that she would receive a summons if she chose to file an accident report.

The Respondent, while enroute to Traffic Court in a Department vehicle, was involved in a motor vehicle accident with a vehicle driven by Ciaburri. The Respondent was required to report the accident to his command but failed to do so. (See Specification No.1) Instead of obtaining Ciaburri's information: license, registration and proof of insurance and then proceed to report the accident, the Respondent asked her, more than once, if she wanted to file an accident report. When Ciaburri told him that she did, the Respondent told her that her insurance card was not current and if she filed a claim, he would have to issue her a summons.

After Ciaburri was convinced at the scene that she would receive a summons if she filed a claim she then changed her mind and told him that she would not be filing one. The Respondent allowed her to leave and proceeded to Traffic Court with no apparent intention of notifying his command of the accident because he apparently did not want to miss Traffic Court and spend the day filing the accident report. The Department only found out about the accident when Ciaburri changed her mind some time later and contacted the Department.

This Court finds that the Respondent, by telling Ciaburri that she would receive a summons if she filed an accident report, was essentially suggesting to her that if she did not file a report she would avoid receiving a summons. This suggestion undoubtedly caused her to change her mind at the scene about filing an accident report. The Respondent testified that he had the discretion as to issuing her a summons and therefore there was no need to make any suggestion to her that the summons was contingent on her

filing the report. But he was apparently not just going to use his discretion and not give her a ticket because he made it clear—file a report and receive a summons. When she refused to file a report at the scene, the Respondent then allowed her to leave without issuing her a summons and without notifying the Department.

It was only after she changed her mind and contacted the Department about the accident that the Department learned of what occurred.

Accordingly, the Respondent is found Guilty of Specification No. 3.

### PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y. 2d 222 (1974).

The Respondent was appointed to the Department on July 1, 2004. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

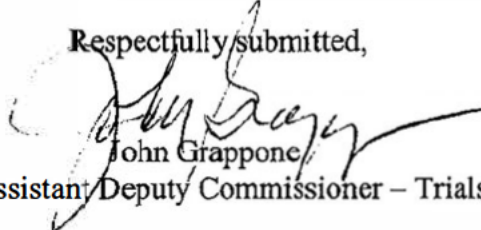
The Respondent has pled Guilty to being discourteous to Lieutenant Lomando. The Department does not tolerate blatant disrespect for a superior officer as evidenced by Disciplinary Case No. 82101/06, where a six year member of the Department with one prior disciplinary record was penalized 25 vacation days for being discourteous to a sergeant.

The Respondent also pled Guilty to failing to promptly report a motor vehicle accident to his command that he was involved in and he was found Guilty of suggesting to Ciaburri that if she filed an accident report for that same accident she would receive a summons.


It is clear to this Court that Ciaburri shied away from filing a report because of the fear that the Respondent placed in her about receiving a summons. This act of making an inappropriate suggestion to a motorist following an accident which resulted in not reporting the accident with a Department vehicle is inappropriate and serious in nature because it gives the impression that uniform members of the Department can be bargained with—possibly in matters more serious in nature.

Accordingly, based on the foregoing and the Respondent's extensive prior disciplinary record in his relatively short career, I recommend that the Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Section 14-115 (d) of the Administrative Code, during which time he remains on the force at the Police Commissioner's discretion and may be terminated at anytime without further proceedings. I further recommend that the Respondent forfeit a period of 30 vacation days.

Respectfully submitted,

  
John Grappone  
Assistant Deputy Commissioner – Trials

**APPROVED**

  
AUG 11 2010  
RAYMOND W. KELLY  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

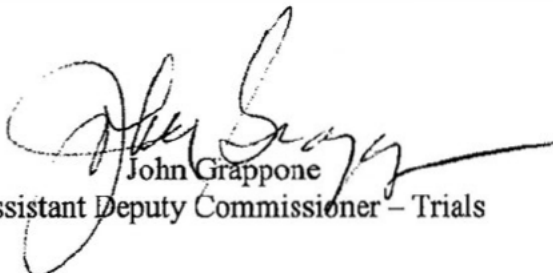
From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER GEORGE SHAMMAS  
TAX REGISTRY NO. 935730  
DISCIPLINARY CASE NO. 85239/09

In his yearly evaluations of 2007, 2008 and 2009 the Respondent was rated 4.5, Highly Competent, 3.5, Above Competent and 3.0 "Competent," respectively. He has received one medal for Excellent Police Duty. [REDACTED]  
[REDACTED]

In July 2006, the Respondent received charges and specifications for failure to remain on post, failure to make activity log entries and failure to carry his Department issued tactical response hood. In October 2006, the Respondent received charges and specifications for failure to report being involved in a police incident, failure to carry his shield while armed, and wrongfully operated or parked a vehicle with an expired certificate of inspection.

The Respondent was placed in Level II Discipline Monitoring in August 2009.

For your consideration.

  
John Grappone  
Assistant Deputy Commissioner – Trials



**OFFICE OF THE POLICE COMMISSIONER**

ONE POLICE PLAZA • ROOM 1400

**CHAN**

August 10, 2010

**Memorandum for:** First Deputy Commissioner  
**Attention:** Chief of Personnel

**Subject: ADMINISTRATIVE TRANSFER OF A UNIFORMED MEMBER  
OF THE SERVICE**

1. **P.O. George Shammas, Tax # 935730**, was recently the subject of Disciplinary Case No. 85239/09.
2. Separate and apart from the disciplinary process, the Police Commissioner also directs that P.O. Shammas be immediately transferred to a Patrol Borough Brooklyn North Precinct enforcement command, subject to the exigencies of the Department.
3. Further, P.O. Shammas will not be the subject of any future transfer without the explicit approval of the Police Commissioner.
4. Forwarded for necessary attention.

**BY DIRECTION OF THE POLICE COMMISSIONER**

Michael E. Shea  
Assistant Chief  
Commanding Officer  
Police Commissioner's Office

**APPROVED**  
AUG 11 2010  
  
**RAYMOND W. KELLY**  
POLICE COMMISSIONER